

REMARKS

This application has been reviewed in light of the Office Action dated June 7, 2004. Claims 29-55 are presented for examination, of which Claims 29, 36, 40, 47, 51, 52, and 53 are in independent form. Claims 29, 36, 38, 40, 47, 49, 51, and 52 have been amended to define still more clearly what Applicant regards as his invention. Claims 53-55 have been added to provide Applicant with a more complete scope of protection. Favorable reconsideration is requested.

Claims 36-39, 47-50, and 52 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,657,667 (*Anderson*), Claims 29, 30, 33-35, 40, 41, 44-46, and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,807,256 (*Taguchi et al.*) in view of U.S. Patent 6,282,513 (*Strawder*), and Claims 31, 32, 42, and 43 were rejected under Section 103(a) as being unpatentable over *Taguchi et al.* in view of *Strawder* and U.S. Patent No. 6,522,354 (*Kawamura et al.*).

The aspect of the present invention set forth in Claim 29 is an image processing apparatus. The apparatus includes image taking means for taking an image, display control means for controlling to display an image taken by the image taking means, selection means for selecting an image as an object for re-taking from among the already taken images displayed by the display control means, and re-taking instruction means for instructing the image taking means to re-take an image corresponding to the image selected by the selection means. The re-taking instruction means is adapted to set an image taking condition of the image taking means, and the image taking condition of the image selected by the selection means is set as an initial value.

Among other important features of Claim 29 are selecting an image as an object of re-taking from among the already taken images displayed by the display control means, instructing the image taking means to re-take an image corresponding to the image selected by the selection means, and that the re-taking instruction means is adapted to set an image taking condition of the image taking means and the image taking condition of the image selected by the selection means is set as an initial value.

Taguchi et al. and *Strawder*, alone or in combination, are not seen to disclose or suggest the apparatus as defined by independent Claim 29, particularly with respect to selecting an image as an object of re-taking from among the already taken images displayed by the display control means, instructing the image taking means to re-take an image corresponding to the image selected by the selection means, and that the re-taking instruction means is adapted to set an image taking condition of the image taking means and the image taking condition of the image selected by the selection means is set as an initial value.

Taguchi et al. relates to a medical information processing system for comparing a plurality of diagnostic information including doctor's findings and results of computerized analysis of images and other examination data. The *Taguchi et al.* system discusses selecting an arbitrary image. That is, the *Taguchi et al.* system selects abnormal images of the same kind in a given inspection. The Office Action correctly states that *Taguchi et al.* fails to include selection means for selecting an image as an object for re-taking from among the images displayed, and instructing the image taking means to re-take an image corresponding to the image selected by the selection means. Furthermore, nothing has been found in *Taguchi et al.* that would teach or suggest that the re-taking instruction means is adapted to set an image

taking condition of the image taking means and the image taking condition of the image selected by the selection means is set as an initial value, as recited in Claim 29.

For at least the above reasons, Applicant submits that Claim 29 is clearly patentable over *Taguchi et al.*, taken alone.

The Office Action cites *Strawder* as remedying the deficiencies of *Taguchi et al.*, and in particular disclosing selecting an image as an object for re-taking from among the images displayed, and instructing the image taking means to re-take an image corresponding to the image selected by the selection means. *Strawder* relates to an apparatus and method capable of producing findings which monitor the productivity of an X-ray machine and its operator. In the *Strawder* system, the performance of a particular x-ray examination is compared to a standard pattern of how the particular type of x-ray examination of a body part of a patient is routinely performed to produce results that include the performance and skill level of the operator during the examination. *Strawder* discusses in Example 2, column 11, line 20, to column 13, line 18, an example of such an examination where an operator takes a series of x-ray images, develops the x-rays and notices that on one of the developed pictures (lateral or fourth view), the patient breathed, necessitating that the image be retaken. Computer 60 stores information of each view of the series of x-rays and calculates the cost of the examination, and whether the patient is to be charged extra for the additional image that was taken. In the *Strawder* system, it is the technologists that “goes and develops the series of x-rays” (column 12, line 9) and determines from the developed x-rays that an image must be retaken (column 12, lines 11-13).

Applicant has found nothing in *Strawder* that would teach or suggest selecting an image as an object for re-taking from among the images displayed, and instructing the image taking means to re-take an image corresponding to the image selected by the selection means, as

recited in Claim 29. The only information displayed in *Strawder* is on computer display 50, which displays information or data which Applicant understands relate to exposure data and other relevant data regarding a typical examination for a particular body part. Images, however, are not displayed on the computer display 50. Rather, the technologist must go develop the series of x-rays. Further, selecting of an image as an object of re-taking in the *Strawder* system is performed by the technologist himself, not by the computer 60. Once an image is selected for re-taking, the technologist, in *Strawder*, repositions the body part of the patient correctly for re-taking. In the present invention as recited in Claim 29, on the other hand, an image is selected as an object of re-taking from among the already taken images displayed by the display control means. Nothing has been found in *Strawder* that would teach or suggest selecting an image as an object for re-taking from among the images displayed, and instructing the image taking means to re-take an image corresponding to the image selected by the selection means, as recited in Claim 29.

Furthermore, nothing has been found in *Strawder* that would teach or suggest that the re-taking instruction means is adapted to set an image taking condition of the image taking means and the image taking condition of the image selected by the selection means is set as an initial value, as further recited in Claim 29.

Therefore, even if *Taguchi et al.* and *Strawder* were to be combined in the manner suggested by the Examiner, assuming such a combination would even be permissible, the result would not meet the terms of Claim 29.

Accordingly, Claim 29 is believed clearly allowable over *Taguchi et al.* and *Strawder*, taken separately or in any proper combination.

Independent Claims 40 and 51 are method and storage medium claims, respectively, corresponding to apparatus Claim 29, and are believed to be patentable over *Taguchi et al.* and *Strawder* for reasons substantially similar to those as discussed above in connection with Claim 29. Additionally, independent Claim 53 includes features similar to those discussed above in connection with Claim 29. Accordingly, Claim 53 is believed to be patentable over *Taguchi et al.* and *Strawder* for reasons substantially similar to those discussed above in connection with Claim 29.

The aspect of the present invention set forth in Claim 36 is an image processing apparatus. The apparatus includes image taking means for taking an image in association with an image taking ID, storage means for storing the image taking ID of the image taken by the image taking means, and image selection means for, when the image is taken by the image taking means in association with a same image taking ID as the image taking ID stored in the storage means, selecting one image from among a plurality of the images to which the same image taking ID is given. The apparatus also includes image output means for outputting the image selected by the image selection means.

Among other important features of Claim 36 are selecting, when the image is taken by the image taking means in association with a same image taking ID as the image taking ID stored in the storage means, one image from among a plurality of images to which the same image taking ID is given, and outputting the image selected by the image selection means.

Anderson relates to digital imaging devices for capturing a multidimensional array of overlapping images for composite image generation. In the *Anderson* device, tags are given to the respective images, and the information about how the image is disposed with respect to the composite image format is registered in the tags. *Anderson* discusses that when an already

captured image of an image pane is exchanged for a new image, the already captured image is overwritten (column 8, lines 11-16). The Examiner appears to interpret this cited passage as the new image acquiring the tag from the already captured image that was overwritten. Applicant submits, however, that *Anderson* is silent with respect to this aspect. Even if the new image in *Anderson* is deemed to take over the tag of the already captured image that was overwritten, *Anderson* fails to discuss plural images having the same tag, because in *Anderson* an image is overwritten when an already captured image is exchanged for a new image. Thus, it is not possible for the *Anderson* device to select one image from among plural images to which the same image taking ID is given. Accordingly, nothing has been found in *Anderson* that would teach or suggest selecting, when the image is taken by the image taking means in association with the same image taking ID as the image taking ID stored in the storage means, one image from among a plurality of images to which the same image taking ID is given, and outputting the image selected by the image selection means, as recited in Claim 36.

For at least the above reasons, Applicant submits that Claim 36 is clearly patentable over *Anderson*.

Independent Claims 47 and 52 are method and storage medium claims, respectively, corresponding to apparatus Claim 36, and are believed to be patentable over *Anderson* for reasons substantially similar to those as discussed above in connection with Claim 36.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the

invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable further consideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Frank A. DeLuca', is written over a horizontal line.

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